IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE.

WRIT PETITION NO. 4461 OF 2006

Varsha Sitaram Jadhav ... Petitioner.

versus

Thane Municipal Corpn & ors. Respondents.

Shri P.K.Dhakephalkar with J.S.Deo for petitioner
Shri R.S.Apte for Respdt. 1/2.
Shri S.R.Nargolkar AGP for Respdt.3.
Shri S.M.Oak for Respdt.4.

CORAM; V.G. PALSHIKAR &
V.M. KANADE, JJ.

DTAED: 11TH JULY, 2006.

P.C.

1. By this petition, the petitioner claims apart from everything else undisturbed possession of Final Plot no. 340.

2. In W.P.No. 5953/05 filed by one Siddhi Developers against Thane Municipal Corporation, the parties consented to an agreed order and the petition was disposed of. One of the agreement was as follows:

> "In view of the affidavit-in-reply filed by respondent, respondent is directed to hand over the vacant peaceful possession of final plot No.340 admeasuring 3955 .92 sq.mtrs.

situated at Panchphakhadi, Thane to the petitioner within a period of ten months from today."

3. The present petitioner was not a perty to that writ petition and therefore the contention is that he cannot be covered by this direction passed intra parties on consent terms.

3. It is the case of the petitioner that the petitioner was tenant of the original landlord. After finalisation of the scheme the final plot No. 340 was given to the original landlord and therefore there is no question of the petitiner's tenancy right being disturbed. Hence this petition.

4. All the questions which are raised in this writ petition are the questions which are required to be looked into and the proper remedy for the petitioner is therefore to file a suit. It is obvious from the minutes of the order in the writ petition no. 5953 of 2005 that the petitioner was not a party to that petition and consequently to that order. Therefore petitioner shall be at liberty to contend that his possession as tenant of the original landlord i.e. one Mr. Parera is proper and legal and can claim consequential benefits that may flow from this order.

Therefore, keeping all these contentions open to the petitioner, this petition is disposed of permitting the petitioner to approach civil court of competent jurisdiction.

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